



**Translation**

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PF-030016-WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/JP2003/014249	International filing date (day/month/year) 10 November 2003 (10.11.2003)	Priority date (day/month/year) 15 November 2002 (15.11.2002)
International Patent Classification (IPC) or national classification and IPC A61K 7/00, 7/48		
Applicant KOSE CORPORATION		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
  - a. ☒ (sent to the applicant and to the International Bureau) a total of 1 sheets, as follows:
    - ☒ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
 

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand 26 May 2004 (26.05.2004)	Date of completion of this report 10 February 2005 (10.02.2005)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2003/014249

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is language of a translation furnished for the purpose of:

- ☐ international search (under Rules 12.3 and 23.1(b))  
☐ publication of the international application (under Rule 12.4)  
☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☐ The international application as originally filed/furnished

☒ the description:

pages \_\_\_\_\_ 1-12 \_\_\_\_\_, as originally filed/furnished

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

☒ the claims:

pages \_\_\_\_\_ 2, 3 \_\_\_\_\_, as originally filed/furnished

pages\* \_\_\_\_\_, as amended (together with any statement) under Article 19

pages\* \_\_\_\_\_ 1, 6 \_\_\_\_\_ received by this Authority on 28 January 2005 (28.01.2005)

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

☐ the drawings:

pages \_\_\_\_\_, as originally filed/furnished

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:

☐ the description, pages \_\_\_\_\_

☒ the claims, Nos. \_\_\_\_\_ 4, 5 \_\_\_\_\_

☐ the drawings, sheets/figs \_\_\_\_\_

☐ the sequence listing (*specify*): \_\_\_\_\_

☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages \_\_\_\_\_

☐ the claims, Nos. \_\_\_\_\_

☐ the drawings, sheets/figs \_\_\_\_\_

☐ the sequence listing (*specify*): \_\_\_\_\_

☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)

Claims

1-3, 6

YES

Claims

NO

Inventive step (IS)

Claims

YES

Claims

1-3, 6

NO

Industrial applicability (IA)

Claims

1-3, 6

YES

Claims

NO

**2. Citations and explanations (Rule 70.7)**

Document A: EP, 1153595, A2 (Takasago International Corp.), 9 May, 2001 (09.05.01), the claims, claims 4 and 5, [0045], & JP, 2001-316217, A

Document B: JP, 2002-302414, A (K.K. Kokuryudo), 18 October, 2002 (18.10.02), the claims, [0024]

Document C: JP, 2000-128733, A (Lion Corp.), 9 May, 2000 (09.05.00), the claims, [0037], [0065], examples

The subject matters of claims 1-3 and 6 do not appear to involve an inventive step in view of documents A-C cited in the ISR.

Document A describes a transparent or almost transparent toilet article containing ingredients (a) through (d) (Table 1 Example 5, Table 2 Examples 6-8, Application Example 1), and the toilet article is not white turbid in appearance but is excellent in storage stability.

Furthermore, the invention described in document A duplicates the subject matters of claims 1-3 and 6 in the mixed amounts of respective ingredients, and employs a similar production method.

So, a person skilled in the art could have easily (1) adjusted the mixed amounts of ingredients and (2) set the size of emulsified particles in order to obtain a preferred appearance within the range of maintaining storage stability without causing a white turbid appearance, considering (a) the particle size of the emulsified toilet article containing ceramide in document B and (b) the description of the appearance of the emulsion in document C.

As for the effect of the invention, it is not considered that the particle size of the emulsion described in claims 1-3 and 6 exhibits an especially remarkable effect compared with the state having the particle size of transparent or almost transparent range of document A.